IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.968 OF 2000
ALONG WITH
CRIMINAL APPEAL NO.136 OF 2000

State of Maharashtra ...Appellant

V/s

Vishwanath Asrafi Pasi ...Respondent.

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Mr. D.P. Adsule for the appellant.

CORAM: V.M.KANADE,J.

DATE: 20th September, 2004.

PC:.

1. The application for condonation of delay and the appeal is disposed of by this common order.

2. Heard the learned APP for the appellant - State.

3. Applicant - State has filed Criminal Application No.968 of 2000 for condonation of delay of 16 days in filing the Criminal Appeal No.136 of 2000.

4. Respondent was charged under section 3(a) of the Railway Property (Unlawful Possession) Act, 1966. The accused was found in unlawful possession of Railway Wegon Chain and one piece of Hose Pipe belonging to the Railways. The Trial Court came to the conclusion that under the provisions of section 3(a) of the said

Act, the prosecution had to prove that the property which was seized from the accused belongs to the Railways. If the two ingredients are not proved, the accused is liable to be acquitted. The Trial Court observed from the evidence of P.W. 1 - Kshirsagar and P.W. 2 - Firozkhan that P.W.1 was not an eye witness to the said incident and whereas though the evidence of P.W.2 - Firozkhan who had lodged a report against the accused supported the prosecution, the prosecution has failed to prove the seizure panchanama and, as a result, the contents of the documents were not proved. The accused did not claim the property. The Trial Court, therefore, acquitted the accused.

5. I do not see any reason to interefere with the said order. Under these circumstances, the delay in filing the appeal is condoned. However, leave to file the appeal is refused. Appeal is dismissed.

V.M. KANADE, J.